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February 27, 2006

**Via E Mail and  
First Class Mail**

Thomas Krueger  
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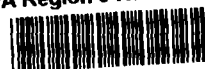
**Re: Ellsworth Industrial Park  
Settlement Agreement and Order  
Comments on U.S.EPA's Draft "Preliminary Planning Report"**

Dear Mr. Krueger:

This letter is submitted on behalf of all the private parties that signed the Settlement Agreement and Order ("SAO") entered on or about September 29, 2005 ("Ellsworth Group"), in connection with the Ellsworth Industrial Park Site ("EIP").

Set forth below are the Ellsworth Group's general comments on the draft Preliminary Planning Report ("PPR") issued by the Agency on January 20 and 27, 2006 (in parts). These comments are being submitted at the same time, and are to be read together with, the comments of the Ellsworth Group's technical consultant Michael Baker Jr., Inc. ("Baker"). Individual members of the Ellsworth Group may also submit their own comments. The Ellsworth Group's comments, those of Baker, and those of individual group members shall in no event be construed as an admission, in whole or in part, of liability or responsibility for conditions in or about the EIP. Nor shall they be construed as an admission or acknowledgement, in whole or in part, that the draft PPR is necessary or appropriate, that it complies with applicable laws, regulations and Agency guidance, or that it is consistent with the requirements of the SAO or the Agreement in Principle (July 2003).

EPA Region 5 Records Ctr.



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**1. Concerns regarding the Agency database underlying the Draft PPR.** Throughout this process we have questioned the Agency regarding the completeness, sufficiency, and quality of the data base developed by the U.S.EPA and relied upon as the basis for the various response actions it has required at EIP. The Agency has been working on the database for quite some time and on January 5 2006 related that it was in "good shape," and would be used as the basis for the PPR. Thereafter, we asked the Agency for the Data Quality Analysis for the database, or at least some paper trail setting forth the steps taken by the Agency to rectify the acknowledged problems with the database. The Agency advised that there was no such documentation. We remain concerned that absent this information, reliance on the database may be misplaced.

**2. Concerns Regarding Overall Cost.** In the AIP, the Agency estimated that given the amount of work already done, the cost of the OU1 RI/FS would likely range from \$500,000 to \$1 million. The last estimate the Agency provided the Ellsworth Group before embarking on the planning process was less than \$1 million. It was anticipated that incorporation of the TRIAD process would improve efficiency in the field, such that actual cost would be lower than this "conservative" estimate.

The cost estimate included in the draft PPR is for **\$1,553,000**; and with all of the contingent sampling, vagaries of the TRIAD approach, lack of controls reflected by the draft PPR, and the relatively low estimates for the cost of report preparation, the Ellsworth Group is extremely concerned that the final cost may well exceed \$2,000,000.

This mission or scope creep is simply unacceptable to the Ellsworth Group as being contrary to the letter and spirit of the AIP and the group members' understanding when we signed onto the SAO. The Ellsworth Group effectively has no choice but to object to implementation of any OU1 RI/FS that exceeds the agreed upon cost parameters; and should such a RI/FS be implemented by the Agency, the Group will vigorously oppose any effort by the Agency in any other proceeding to try to collect any amount in excess of the \$1 million SAO cap.

**3. Concerns Regarding Agency Delay.** As previously related a number of times, the Ellsworth Group is extremely concerned about the Agency's delay in completing the draft PPR. It had been our understanding, as expressly stated in the SAO, that the Agency was actually going to be in the field collecting data (and that it would endeavor to have sampling results in our hands) before the end of calendar year 2005. The Agency is well aware that it had been the intent of the Ellsworth Group members to make use of the data in the various pieces of litigation arising from EIP and also to facilitate internal allocation of response costs among ourselves; and that having the data within that time frame was of critical importance to us. The Agency's failure to proceed with the RI/FS project in a timely manner has seriously

prejudiced the group and frustrates a fundamental purpose underlying the group's decision to agree to the SAO.

**4. Concerns Regarding the Passive Gas Screening Technology.** Even if there was a justification for the extensive screening and sampling grid approach proposed in the PPR, we do not understand the proposed use of passive gas technology as the primary screening tool across the entire site - particularly given the substantial amounts of clay that underlies the Park and the problems with the passive gas technique that are acknowledged by USEPA's contractors in the PPR. For example, the presence of soil gas near the surface in this geology may not be an indicator of the actual presence of contamination in the soil near that gas grab. The use of this technology is estimated to cost a material amount of money (>\$200,000), and may do no more than develop a body of false positives to be disproven and/or provide confirmation of information that is already supposed to be in the Agency's data base. If the substantial data base already in existence is in fact usable, as the Agency maintains, it would seem logical that many of the 'data gaps' can be reasonably well approximated through rudimentary modeling and the areas of SOW focus could be winnowed substantially without the need for a full EIP passive gas grid. At a minimum, the Agency should acknowledge that the passive gas analytical results standing alone, and without follow-up intrusive sampling results, are not reliable indicators of the existence of a source of offsite groundwater contamination.

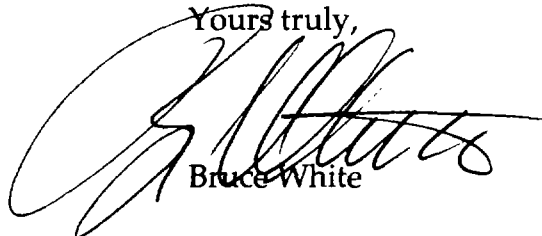
**5. Concerns Regarding Omission of Data Collection For Use in Later MNA Analysis.** The Agency has acknowledged that during the OU1 SOW work, for purposes of future analysis of MNA as a potential remedy, just six samples will be analyzed for physical parameters, some aquifer hydraulic conductivity testing will be performed, and additional monitoring wells that will be installed at the site may be sampled for MNA parameters. As explained more thoroughly in Baker's comments, we believe that OU1 presents a real opportunity to collect that MNA data from the EIP (OU1) that will need to be analyzed to later assess the feasibility of MNA. Given the huge number of samples U.S.EPA is proposing to analyze, it would make sense to include MNA parameters in the analyses where appropriate.

**6. Additional Areas That Should be Investigated as Part of OU1.** On January 10, 2006, through Baker, the Ellsworth Group proposed inclusion of an area east of the park for further investigation. It appeared to the group members, Baker, and even Weston and TetraTech, from prior investigations that there were one or more sources of TCE or PCE to the east. Initially, U.S.EPA declined to consider investigation of any areas outside the OUI "boundary." At our meeting on January 19, 2006, however, the Agency expressed a willingness to consider inclusion of such areas. In Baker's technical comments three additional areas for investigation have been proposed: (a) specific locations east of the Park; (b) the DGSD old lagoon area and the area to the northwest of it; and (c) the area just northeast of the Park where there were detects of TCE and PCE.

7. **Concerns Regarding Unsupported Conclusions in the PPR.** In Section 1 of the PPR, and particularly Section 1.2.2.2, some very broad conclusions are made linking alleged sources in the Park to the residential wells. This subsection is only supposed to summarize the Phase I and II Site Assessments, and as yet there is not sufficient data at this time to reach these conclusions. Moreover, as indicated by the above request for further investigation in areas outside the Park, we believe that there may well be other sources for the contamination found in some of the residential wells. We ask that all such conclusions be removed from the PPR including, at a minimum, the following:

- The last sentence of Subsection 1.2.2.2, Previous Field Investigations, Phase I Site Assessment, pages 4-5, concludes that "[t]he presence of TCE and PCE in shallow groundwater provided a potential link between source(s) in the industrial park and contamination observed in residential wells downgradient of the site." Based on the current information, there is insufficient characterization of migration pathways and fate and transport mechanisms to make this conclusion. Therefore, this last sentence should be omitted from the PPR.
- Similarly, the last sentence of Subsection 1.2.2.2, Previous Field Investigations, Phase II Site Assessment, page 5, concludes that "[t]he data indicated that chlorinated solvent constituents appear to be migrating from sources within the industrial park through overburden soil, entering the bedrock aquifer system, and migrating in a downgradient direction towards the affected residences." Based on the current information, there is insufficient characterization of migration pathways and fate and transport mechanisms to make this conclusion. Therefore, this last sentence should be omitted from the PPR.

If you would like to meet to review any of these comments, the Ellsworth Group members will be available at a mutually agreeable time. If you would like to discuss any specifics, or need clarification, feel free to call.

Yours truly,  
  
Bruce White

BW:wb  
cc:  
Mazin Enwiya  
See attached service list

**ELLSWORTH SECOND SPECIAL NOTICE LETTER  
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